

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Advanced Methods to Target and Eliminate	)	CG Docket No. 17-59
Unlawful Robocalls	)	
	)	
	)	
	)	

**COMMENTS OF NOBELBIZ, INC.**

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## SUMMARY

NobelBiz, Inc. (“NobelBiz”), by its attorneys, hereby respectfully submits comments in response to the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding. NobelBiz’s comments focus on ensuring that all parties understand what narrow types of calls could be blocked under the Proposed Rule. In particular, the Commission should clarify that a caller ID management solutions such as NobelBiz’s LocalTouch service are valuable, legal, and non-deceptive, and it would be *unreasonable* and *unjust* for providers to block calls associated with LocalTouch. As explained in these comments, caller ID management services such as LocalTouch are legitimate, lawful services that benefit the public interest, and calls employing such services are not the type of “illegal robocalls” targeted by the Proposed Rule.

Relatedly, NobelBiz urges the Commission to use the term “spoofing” carefully to avoid potential confusion about the scope of the Proposed Rule. It should not use overly broad generalizations about “spoofing” as a technology. Instead, the Commission should be precise in its *Report and Order* that only blocking of calls that fit the NPRM’s four narrow categories is just and reasonable; blocking of a call merely because some form of spoofing (in the broader sense) is used would be unjust and unreasonable in violation of Section 201(b) of the Act.

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**COMMENTS OF NOBELBIZ, INC.**

NobelBiz, Inc. (“NobelBiz”), by its attorneys, hereby respectfully submits comments in response to the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding. NobelBiz is a privately-held corporation that provides carrier services, such as origination and termination, domestic, international, and TDM and SIP carrier services, to contact centers. Its products include LocalTouch, a caller ID management solution. Users of NobelBiz technologies include companies in an array of industries such as customer service, financial services, healthcare, and debt collection.

NobelBiz welcomes the opportunity to provide comments on the NPRM.<sup>1</sup>

NobelBiz’s comments focus on ensuring that all parties understand what narrow types of calls could be blocked under the Proposed Rule. In particular, while NobelBiz agrees that calls with invalid or unassigned originating numbers may lawfully be blocked where technically feasible, the Commission should clarify that services such as NobelBiz’s LocalTouch service are valuable, legal, and non-deceptive, and it would be *unreasonable* and *unjust* for providers to

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<sup>1</sup> These comments relate only to the Notice of Proposed Rulemaking, and not the Notice of Inquiry. NobelBiz reserves its right to submit comments on the Notice of Inquiry at a later date.

block calls associated with LocalTouch. In short, LocalTouch calls are not affected by the Proposed Rule. Relatedly, NobelBiz urges the Commission to use the term “spoofing” carefully to avoid potential confusion about the scope of the Proposed Rule.

## **I. LOCALTOUCH IS LEGAL AND NON-DECEPTIVE.**

NobelBiz’s flagship product is LocalTouch, a caller ID management solution that projects a unique automated number identifier (ANI) based on the area code of the called party. The ANI projected to the call recipient is a valid, assigned telephone number in operation in the recipient’s area. The number is assigned to NobelBiz and associated with the individual contact center. Any calls by the consumer to that number go directly to the center. This technology offers meaningful benefits to consumers, including increased likelihood of “right party contact” on first call, the ability for consumers to return a missed call, fewer calls to each consumer, and increased use of telephone communication to resolve disputes before the need to engage in adversarial proceedings. In short, the use of LocalTouch technology is beneficial to both consumers and industry because it facilitates contact between the consumer and caller.

Both federal and state law permit the use of caller ID technologies like LocalTouch, which do not involve deceptive manipulation of caller ID but rather project an accurate and truthful number associated with the caller.

The FCC’s caller ID rules require telecommunications carriers to transmit the calling party number (“CPN”) field unaltered to interconnecting carriers and ultimately to the

call recipient, as transmitted by the originating caller.<sup>2</sup> Except in the case of telemarketers, the FCC permits the caller to determine whether to utilize a privacy indicator to mask the CPN of the call.<sup>3</sup> A telemarketer must transmit CPN information but is permitted to substitute “the name of the seller on behalf of which the telemarketing call is placed and the seller’s customer service number.”<sup>4</sup> This “customer service number” can be any number, provided that the individual may make a do-not-call request to the number during regular business hours.<sup>5</sup>

NobelBiz’s LocalTouch complies with these requirements. To the extent that a LocalTouch customer engages in telemarketing, the customer is permitted to substitute a customer service number such as the local number assigned to the customer in the caller ID field. Critically, the LocalTouch number is an actual, working number associated with the customer; any calls to the number will be directed to the customer, thereby enabling it to handle do-not-call requests as required by the rules.

Similarly, the Telemarketing Sales Rule (“TSR”) expressly permits a telemarketer to “substitute (for the name and phone number used in, or billed for, making the call) the name of the seller or charitable organization on behalf of which a telemarketing call is placed, and the seller’s or charitable organization’s customer or donor service telephone number, which is answered during regular business hours.”<sup>6</sup> This includes the right of telemarketers to “transmit

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<sup>2</sup> See 47 C.F.R. § 64.1601(a).

<sup>3</sup> *Id.* §§ 64.1601(b), (e)(1)(2).

<sup>4</sup> *Id.* § 64.1601(e)(1).

<sup>5</sup> *Id.*

<sup>6</sup> 16 C.F.R. § 310.4(a)(8).

any number associated with the telemarketer that allows the called consumer to identify the caller,” including “a number assigned to the telemarketer by its carrier, the specific number from which a sales representative placed a call, or a number used by the telemarketer’s carrier to bill the telemarketer for a given call.”<sup>7</sup>

LocalTouch also is legal under the federal Truth in Caller ID Act of 2009 (“TCIA”). Under the TCIA, it is unlawful for any person “to cause any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value.” In promulgating regulations implementing the TCIA, the Commission explained that “[t]he legislative history of the [TCIA] makes clear that manipulation or alteration of caller ID information done without the requisite harmful intent does not violate the Act.”<sup>8</sup> In that same Report and Order, the Commission specifically responded to NobelBiz comments by acknowledging that manipulation of caller ID information in order to display a local phone number is not in and of itself a violation of the TCIA.<sup>9</sup>

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<sup>7</sup> Telemarketing Sales Rule; Final Rule, 68 Fed. Reg. 4580, 4625 (Jan. 29, 2003).

<sup>8</sup> *Rules and Regulations Implementing the Truth in Caller ID Act of 2009*, WC Docket No. 11-39, Report and Order, FCC 11-100, ¶ 25 (rel. June 22, 2011).

<sup>9</sup> *Id.*

In particular, LocalTouch is **not** an example of what the Commission recently referred to as “neighbor spoofing.”<sup>10</sup> Neighbor spoofing was defined by the Commission as a practice to alter the first six digits of the calling telephone number (corresponding with the NPA-NXX of the telephone number) to mimic that of the called party.<sup>11</sup> In a recent enforcement action against Adrian Abramovich and his companies allegedly involving nearly 100 million unwanted prerecorded message calls, the Commission accused Mr. Abramovich of violating the TCIA by using “neighbor spoofing” as part of the alleged scam. Mr. Abramovich’s use of spoofed numbers indeed appears to have been engaged for fraudulent purposes, but it is important to distinguish between Mr. Abramovich’s use and LocalTouch. As described in the NAL, it appears that Mr. Abramovich inserted a random telephone number using the NPA-NXX of the called party.<sup>12</sup> In so doing, Mr. Abramovich’s so-called “neighbor spoofing” falsely identified the originating party of the call. This resulted in individuals who had no connection with the originating call receiving return calls intended for Mr. Abramovich.<sup>13</sup> Thus, the Commission found Mr. Abramovich “knowingly caused the display of *inaccurate* caller ID information in violation of the Act.”<sup>14</sup> LocalTouch, by contrast, does not display inaccurate caller ID information. As noted above, LocalTouch supplies a local number that is associated with the originating caller. Thus, LocalTouch correctly and accurately identifies the originating

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<sup>10</sup> See Adrian Abramovich, Market Strategy Leaders, Inc. and Marketing Leaders, Inc., Notice of Apparent Liability for Forfeiture, FCC 17-80, ¶ 12 (rel. June 22, 2017) (Abramovich NAL).

<sup>11</sup> *Id.* at n. 31.

<sup>12</sup> *Id.* at ¶ 12 (FCC staff reviewed a sample of call records and found that the first six digits of the calling number matched the first six digits of the called number).

<sup>13</sup> *Id.* at ¶ 18 (describing harm to the actual subscribers whose number is shown).

<sup>14</sup> *Id.* at ¶ 12 (emphasis added).

caller. Moreover, unlike Mr. Abramovich’s apparent use, LocalTouch never inserts a random number or number that identifies a different subscriber.<sup>15</sup>

In addition, the use of LocalTouch to collect debts is not a violation of the Fair Debt Collection Practices Act (“FDCPA”).<sup>16</sup> In *Scheffler v. Integrity Financial Partners, Inc.*, the court rejected the plaintiff’s argument that a collector’s “practice of using a local caller ID number for calls originating in Overland Park, Kansas” but delivered elsewhere constituted a violation of sections 1692d(6) and 1692e(10) of the FDCPA.<sup>17</sup> An important factor in this ruling was that the defendant did not display the name of a fictitious person or pretend to be a family member calling. Rather, the number displayed is a valid number associated with the calling party. The court concluded that because the information displayed on Plaintiff’s caller ID was accurate, there is no liability under the FDCPA.”<sup>18</sup> The defendant in *Scheffler* used LocalTouch.

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<sup>15</sup> In addition, calls made back to the local number are routed to NobelBiz’s customer, i.e., the originating caller.

<sup>16</sup> Under the FDCPA, debt collectors are prohibited from “[t]he use of any false representation or deceptive means to collect or attempt to collect any debtor to obtain information concerning a consumer.” 15 U.S.C. § 1692e(10). Additionally, debt collectors may not place telephone calls “without meaningful disclosure of the caller’s identity.” 15 U.S.C. § 1692d(6).

<sup>17</sup> See *Scheffler v. Integrity Financial Partners, Inc.*, No. 12-CV-00188, 2013 WL 9768539 (D. Minn. Oct. 28, 2013).

<sup>18</sup> *Id.*, compare *Knoll v. Allied Interstate, Inc.* 502 F. Supp. 2d 943 (D. Minn. 2007) (involving intentional display of fictitious information). The court distinguished *Knoll* because “there is no dispute that the local phone number displayed by [the defendant] on Plaintiff’s caller ID actually belongs to [the defendant].” *Scheffler v. Integrity Financial Partners, Inc.*, No. 12-CV-00188, 2013 WL 9768539 (D. Minn. Oct. 28, 2013).



In addition to federal laws governing use of caller ID, certain state laws impose prohibitions similar to those mandated by the TCIA and the TSR. For instance, Indiana prohibits any person from intentionally blocking or attempting to block the display of the person's telephone number or identity when attempting to initiate a telephone conversation for the purpose of making a solicitation.<sup>19</sup> Indiana law also mirrors the TCIA by prohibiting any person from transmitting *misleading or inaccurate* caller identification information to a subscriber knowingly and with the intent to defraud or cause harm.<sup>20</sup> We are unaware of any state or local law that restricts the capacity to use technologies like LocalTouch without the requisite intent to defraud or cause harm, nor are we aware of any case holding that the use of LocalTouch evidences an intent to defraud or cause harm.<sup>21</sup>

Given the above, caller ID management services such as LocalTouch are legitimate, lawful services that benefit the public interest. Calls employing such services are not the type of “illegal robocalls” targeted by the Proposed Rule. NobelBiz encourages the

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<sup>19</sup> Ind. Code Ann. § 24-5-12-25.

<sup>20</sup> Ind. Code Ann. § 24-5-14.5-9 (*emphasis added*).

<sup>21</sup> Indeed, at least one federal appellate court has held that states cannot restrict the use of caller ID technologies that do not intend to cause harm because the TCIA was intended to protect the use of such technologies. *See Teltech Sys., Inc. v. Bryant*, 702 F.3d 232, 239 (5th Cir. 2012) (“[T]here is an inherent federal objective in TCIA to protect non-harmful spoofing. ASA’s proscription of non-harmful spoofing—spoofing done without ‘intent to defraud, cause harm, or wrongfully obtain anything of value’—frustrates this federal objective and is, therefore, conflict preempted.”).

Commission to make clear that its rule does not reach caller ID management services such as LocalTouch.

## **II. IT WOULD BE UNREASONABLE AND UNJUST TO BLOCK CALLS PLACED USING LOCALTOUCH.**

The NPRM aims to facilitate voice service providers' blocking of "illegal robocalls," with the ultimate goals of ensuring that consumers receive fewer robocalls that violate the TCPA and TCIA and preventing harm caused by illegally spoofed caller IDs.<sup>22</sup> Accordingly, the NPRM proposes to define an "illegal robocall" as "one that violates the requirements of the TCPA, the related Commission regulations implementing the Act, or the Telemarketing Sales Rule, as well as any call made for the purpose of defrauding a consumer, as prohibited under a variety of federal and state laws and regulations, including the federal Truth in Caller ID Act."<sup>23</sup> As discussed above, calls placed through LocalTouch do not run afoul of established laws and are not deceptive. Therefore, they are not intended to be covered by the Proposed Rule and may not be blocked by carriers.

To effect the NPRM's stated purpose of addressing "illegal robocalls," the Proposed Rule would authorize providers to block calls from four categories of numbers: (1) numbers for which the subscriber has requested that outbound calls be blocked; (2) invalid numbers (*i.e.*, numbers that are invalid under the North American Numbering Plan ("NANP")),

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<sup>22</sup> See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Notice of Proposed Rulemaking, FCC 17-24 (rel. Mar. 23, 2017) ("NPRM").

<sup>23</sup> NPRM at ¶ 5.

including numbers with unassigned area codes); (3) valid numbers that are not allocated to a voice service provider (*i.e.*, numbers that have not been allocated by the North American Numbering Plan Administrator (“NANPA”) or the National Number Pool Administrator (“PA”) to any provider); and (4) valid numbers that are allocated but not assigned to a subscriber (*i.e.*, numbers that the NANPA or PA has allocated to a provider, but are not currently assigned to a subscriber).

LocalTouch does not use numbers falling within any of these four categories and thus the operation of LocalTouch would not be impacted by the Proposed Rule. Rather, LocalTouch uses only unique, valid, allocated, assigned numbers. These numbers are allocated to the NobelBiz customer, and consumers can call that customer back at the number displayed. Under the Proposed Rule, it remains unjust and unreasonable for providers to block calls merely because they are placed using LocalTouch.

NobelBiz asks that Commission to emphasize that carriers may not block calls that use caller ID management services such as LocalTouch.

### **III. THE FCC SHOULD USE THE TERM “SPOOFING” CAREFULLY TO AVOID POTENTIAL CONFUSION.**

NobelBiz urges the Commission to use the term “spoofing” carefully to avoid potential confusion about the practice and the scope of the Proposed Rule. In many contexts, “spoofing” is a neutral, general term used to refer to management of the number displayed on caller ID. On the FCC website, the Commission confirms, “If no harm is intended or caused,

spoofing is not illegal.”<sup>24</sup> But in certain other contexts, “spoofing” is a pejorative term referring to unlawful manipulation of caller ID with the intent to defraud or cause harm. For example, scammers might spoof the phone number for a trusted organization, such as the IRS or a utility company, to commit fraud against consumers. Or, Mr. Abramovich is alleged to have spoofed numbers in order to further a scheme to sell travel services via misleading marketing tactics.

The term “spoofing” is used throughout the NPRM, and in some cases may cause confusion. For example, in one instance in the NPRM, the Commission states that “blocking a call from a spoofed number is not, by definition, an unjust or unreasonable practice or unjustly or unreasonably discriminatory practice.”<sup>25</sup> This statement could be read to imply that all “spoofed” numbers could be blocked under the Proposed Rule. However, the full context of the NPRM clarifies that the Proposed Rule targets four narrow categories of calls where spoofing has no legitimate, lawful purpose.<sup>26</sup> Calls from other numbers, even if “spoofed” in the general

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<sup>24</sup> Federal Communications Commission, *Spoofing and Caller ID*, <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id> (last updated June 22, 2017).

<sup>25</sup> NPRM at ¶ 4.

<sup>26</sup> See, e.g., NPRM at ¶ 8 (explaining that with calls from unassigned numbers, there is “a strong indication that the calling party is spoofing the caller ID to potentially defraud and harm a voice service subscriber”); NPRM at ¶ 9 (explaining that for invalid numbers, there is no “reasonable possibility that a caller would spoof such a number for any legitimate, lawful purpose”); NPRM at ¶ 11 (explaining that for unallocated numbers there is “no legitimate, lawful reason to spoof such a number because they cannot be called back”).

sense of the word, cannot be blocked under the Proposed Rule.<sup>27</sup> Accordingly, the NPRM does not target lawful caller ID management tools such as LocalTouch.

Similarly, the *Abramovich NAL* makes certain broad statements about spoofing that appear not to apply outside the facts of that case. For example, the *Abramovich NAL* asserts that the practice it describes as neighbor spoofing “without question results in the display of inaccurate caller ID information.”<sup>28</sup> As discussed above, however, Mr. Abramovich’s use of spoofing appears to have resulted in the display of inaccurate caller ID information, but other services (such as LocalTouch) display accurate caller ID information. This and other unqualified statements in the *Abramovich NAL* should be read only to apply to Mr. Abramovich’s specific use of spoofing technology in the context of his broader (and apparently deceptive) scheme. The statements have no application to this proceeding.

NobelBiz urges the FCC to use the term “spoofing” with precision in this proceeding in order to avoid potential confusion. It should not repeat the overly broad statement appearing in paragraph 4 of the NPRM, or similar overly broad generalizations about “spoofing” as a technology. Instead, the Commission should be precise in its *Report and Order* that only blocking of calls that fit the NPRM’s four narrow categories is just and reasonable; blocking of a

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<sup>27</sup> For example, the Commission noted that it seeks to avoid the blocking of “legitimate calls” such as when “a call center lawfully spoofs the caller ID on outgoing calls to utilize the business’s toll-free number that consumers can use to call back or that might be familiar to consumers in a way that helps to identify the caller.” NPRM at ¶ 29.

<sup>28</sup> *Abramovich NAL*, at ¶ 12.

call merely because some form of spoofing (in the broader sense) is used would be unjust and unreasonable in violation of Section 201(b) of the Act.

#### **IV. CONCLUSION**

NobelBiz supports the intent of the NPRM and appreciates the opportunity to provide comments. It is important that all parties understand what types of calls providers may block under the Proposed Rule. For the foregoing reasons, the Commission should clarify that lawful, non-deceptive caller ID management is not the target of the Proposed Rule and calls could not be blocked merely because they are placed using services such as LocalTouch.

Respectfully submitted,



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